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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,447	09/13/2000	Helen B. McIntosh	T2739-906589	7855

7590

11/13/2002

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EXAMINER

SUHOL, DMITRY

ART UNIT

PAPER NUMBER

3712

DATE MAILED: 11/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

LC

# Office Action Summary

Application No.

09/661,447

Applicant(s)

MCINTOSH, HELEN B.

Examiner

Dmitry Suhol

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 11-19 is/are rejected.
- 7) ☒ Claim(s) 8-10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7 and 11-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Laz. Regarding claim 1, Laz discloses all of the elements of the claim, including a method (outlined in "The Six Levels of a Happy Marriage") for enabling conflict resolution among two or more parties (for example, a husband and wife, Stu and Jamie, page 7), comprising providing a script (set of questions, on page 17) to be spoken by at least one of the two or more parties, the script including a plurality (ten) of phrases ("How do I feel ... ?), each phrase corresponding to the beginning of a respective statement (the statement, "How I feel . . . ", in the section titled "Feeling Are Feelings; Critical Is Critical", on page 15), positioning a portable object ("a surprise candlelight dinner", page 7, paragraph 2, third sentence) at a location (their home) for the two or more parties to physically position themselves with respect to the portable object for engaging in a discussion, extending an invitation ("Let's Eat.", page 23, paragraph 3) by a first party to at least one second party for physically positioning themselves ("Sit together with your spouse", page 17, guideline 3) at said location in close proximity to

the positioned portable object, initiating a discussion ("The point is to share your feelings", page 17, guideline 4) corresponding to the script by the first party at said location, and engaging the second party in a discourse ("in your own words, tell each other what you wrote", page 17, guideline 4) that relates to the conflict from the perspective of the first party ("answer one of the questions below", all beginning with the phrase "How Do I Feel ?", page 17, guideline 1), and continuing the discussion according to the script, with each of the remaining parties speaking ("read each other's letter", page 17, guideline 3) in sequence (first one spouse, then the other) each of the plurality of phrases together with respective additional discourse ("Stick to expressing your feelings, not judgements or opinions.", page 17, guideline 4) that relates to the conflict from the perspective of the speaking party, while the parties remain at the location, to encourage respectful and safe behavior.

Regarding claim 2, Laz discloses all of the elements of the claim, including a method further comprising developing a plan ("Every day, answer one of the questions below", page 33, the section titled "How do I Feel ... 7") accomplished by mutual encouragement ("Both partners have to be engaged in the serious business of making the marriage work.", page 14, paragraph 1, sentence 2) to further discuss ("Sit down with your spouse and revealing myself — slowly and gradually.", page 14, paragraph 1, sentences 2 and 3).

Regarding claim 3, Laz discloses all of the elements of the claim, including a

method wherein said discussion includes articulating ("Separately, write your answer to the chosen question", page 33, the section titled "How do I Feel ... 7") a mutually agreeable plan ("Every day, answer one of the questions below", page 33, the section titled "How do I Feel ... 7") for achieving said improved inter-party relations.

Regarding claim 4, Laz discloses all of the elements of the claim, including a method wherein the plurality of statements includes a first statement (comprised of the statement the speakers' spouse has written in response to the question "How do I feel when you respond to my sexual advances?", page 33, the section titled "How do I Feel 7", ninth day) describing an action (response) taken by one of the parties not the speaker, a second statement (comprised of the statement the speaker has written in response to the question "How do I feel when I make sexual advances to you?", page 33, the section titled "How do I Feel ... 2", tenth day) describing a feeling on the part of the speaker as to the effect the action had on the speaker at the time the action occurred, and a third statement (comprised of the statement the speaker has written in response to the question "How do I feel about discussing our sexual life?", page 33, the section titled "How do I Feel ... 7", sixth day) describing a request (for information regarding sexual contact) on the part of the speaker to the perpetrator of the action in connection with the action.

Regarding claim 5, Laz discloses all of the elements of the claim, including a method further comprising the step of celebrating (by performing one of the hundred

ways "for expressing love" listed on pages 30 — 33) the mutually agreeable plan by displaying a symbolic gesture (for example, "Buy you flowers" and "Fix you supper", page 30) of camaraderie.

Regarding claim 6, Laz discloses all of the elements of the claim, including a method wherein the plurality of phrases includes a first phrase, "When you..." ("when you massage my back with your tender touch.", page 28, the section titled "Sex Is Honesty", paragraph 5, sentence 3), a second phrase, "I felt..." ("I felt like a vagabond.", page 45, paragraph 6, first sentence), and a third phrase, "and I need..." ("In her letter to Earl, Fran wrote: 'I need the companionship of my husband.", page 43, paragraph 5, sentence 5).

Regarding claim 7, Laz discloses all of the elements of the claim, including a method wherein the plurality of statements includes a first statement (comprised of the statement the speakers' spouse has written in response to the question "How do I feel when you respond to my sexual advances?", page 33, the section titled "How do I Feel ~ninth day) describing an action (response) taken by one of the parties not a speaker, a second statement (comprised of the statement the speaker has written in response to the question "How do I feel when I make sexual advances to you?", page 33, the section titled "How do I Feel ... 7", tenth day) describing a feeling on the part of the speaker as to the effect the action had on the speaker at the time the action occurred, and a third statement (comprised of the statement the speaker has written in response

to the question "How do I feel about discussing our sexual life?", page 33, the section titled "How do I Feel ... 7", sixth day) describing a request (for information regarding sexual contact) on the part of the speaker, directed to said one of the parties not the speaker, in connection with the action.

Regarding claim 11, Laz discloses all of the elements of the claim, including a method (outlined in "The Six Levels of a Happy Marriage") for enabling a conflict resolution process to be conducted by two or more parties (for example, a husband and wife, Stu and Jamie, page 7) in mutual conflict (argument described on pages 7— 10) who have positioned themselves ("Sit together with your spouse", page 17, guideline 3) in proximity to a conflict resolution area (the dining room in their home), said two or more parties having been pre-instructed as to a script (section titled "How Do I Feel 7", page 17) and a set of instructions (simple guidelines 1 —4, in the section titled "A Question Of Feelings", page 17, paragraphs 1 —4) to be followed in connection with said script, the method comprising speaking ("tell each other what you wrote", guideline 4, in the section titled "A Question Of Feelings", page 17, paragraph 4) by one (a spouse) of the two or more parties to another of the two or more parties (the other spouse) a set of statements according to the script and the set of instructions, and repeating said speaking by each remaining party ("tell each other what you wrote", guideline 4, in the section titled "A Question Of Feelings", page 17, paragraph 4) of the two or more parties until all parties present have spoken while remaining in proximity to the conflict resolution area to encourage respectful and safe behavior.

Regarding claim 12, Laz discloses all of the elements of the claim, including a method further comprising developing a plan ("Every day, answer one of the questions below", page 33, the section titled "How do I Feel ... 7") accomplished by mutual encouragement ("Both partners have to be engaged in the serious business of making the marriage work.", page 14, paragraph 1, sentence 2) of each of the two or more parties to further discuss ("Sit down with your spouse and read each other's letter.", page 33, the section titled "How do I Feel ... 7") the conflict and explore ("in your own words, tell each other what you wrote.", page 33, the section titled "How do I Feel ... 7") how said two or more parties could attain improved inter-parties relations ("Both partners have to be engaged in the serious business of making the marriage work. This can only be done through knowing and revealing myself— slowly and gradually.", page 14, paragraph 1, sentences 2 and 3).

Regarding claim 13, Laz discloses all of the elements of the claim, including a method further comprising articulating ("Separately, write your answer to the chosen question", page 33, the section titled "How do I Feel ... 7") a mutually agreeable plan ("Every day, answer one of the questions below", page 33, the section titled "How do I Feel ... 7") for achieving said improved inter-parties relations.

Regarding claim 14, Laz discloses all of the elements of the claim, including a method further comprising the step of celebrating (by performing one of the hundred



ways "for expressing love" listed on pages 30 — 33) the mutually agreeable plan by displaying a symbolic gesture (for example, "Buy you flowers" and "Fix you supper", page 30) of camaraderie.

Regarding claim 15, Laz discloses all of the elements of the claim, including a method wherein the set of statements includes a first statement (comprised of the statement the speakers' spouse has written in response to the question "How do I feel when you respond to my sexual advances?", page 33, the section titled "How do I Feel 7", ninth day) describing an action (response) taken by one of the parties not a speaker, a second statement (comprised of the statement the speaker has written in response to the question "How do I feel when I make sexual advances to you?", page 33, the section titled "How do I Feel ... 7", tenth day) describing a feeling on the part of the speaker as to the effect the action had on the speaker at the time the action occurred, and a third statement (comprised of the statement the speaker has written in response to the question "How do I feel about discussing our sexual life?", page 33, the section titled "How do I Feel ... 7", sixth day) describing a request (for information regarding sexual contact) on the part of the speaker, directed to said one of the parties not the speaker, in connection with the action.

Regarding claim 16, Laz discloses all of the elements of the claim, including a kit (the book "The Six Levels of a Happy Marriage", paper and writing utensils, "Writing helps you to reflect as your words go down on paper", page 16, section titled "A

Question of Feelings", paragraph 2, sentence 2) for enabling conflict resolution among two or more parties comprising a portable object ("a surprise candlelight dinner", page 7, paragraph 2, sentence 3) said portable object adapted (with candlelight) to be used as a physical and symbolic focus for convening a conflict resolution discussion, and a set of instructions (guidelines 1 —4, page 17) for use in association with said portable object, to encourage ("To get as much as you can out of writing and sharing", page 16, last paragraph) participants involved in a mutual conflict to encourage each other ("Writing helps you see inside yourself It also helps you to share yourself with your loved one.", page 16, paragraph 7, sentences 6—7) to physically convene ("Sit down with your spouse", page 33, the section titled "How do I Feel ... 7") around the portable object and mutually encourage each other ("read each other's letter.", page 33, the section titled "How do I Feel ... 7") to reach a resolution ("Married love means putting the other person first.", page 10, paragraph 2, first sentence) to the conflict.

Regarding claim 17, Laz discloses all of the elements of the claim, including a kit wherein the set of instructions include a plurality of statements including a first statement (comprised of the statement the speakers' spouse has written in response to the question "How do I feel when you respond to my sexual advances?", page 33, the section titled "How do I Feel ... 7", ninth day) describing an action (response) taken by one of the parties not the speaker, a second statement (comprised of the statement the speaker has written in response to the question "How do I feel when I make sexual advances to you?", page 33, the section titled "How do I Feel ... 7", tenth day)

describing a feeling on the part of the speaker as to the effect the action had on the speaker at the time the action occurred, and a third statement (comprised of the statement the speaker has written in response to the question "How do I feel about discussing our sexual life?", page 33, the section titled "How do I Feel 9" sixth day) describing a request (for information regarding sexual contact) on the part of the speaker to the perpetrator of the action in connection with the action.

Regarding claim 18, Laz discloses all of the elements of the claim, including a kit wherein the first statement begins with the phrase, "When you..." ("when you massage my back with your tender touch.", page 28, the section titled "Sex Is Honesty", paragraph 5, sentence 3), the second statement begins with the phrase, "I felt..." ("I felt like a vagabond.", page 45, paragraph 6, first sentence), and the third statement begins with, "And I need..." ("In her letter to Earl, Fran wrote: "I need the companionship of my husband.", page 43, paragraph 5, sentence 5).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laz in view of Gaither. Regarding claim 19, Laz discloses all of the elements of the claim, but

for a kit further comprising a container configured to house the portable object and instructions and to enable the portable object to be carried to various site locations. However, Gaither teaches a kit ("Traveling Friendship Basket", shown and described on page 170) further comprising a container (a large, inexpensive basket) configured to house the portable object and instructions and to enable the portable object to be carried (by the handle) to various site locations. Therefore, it would have been obvious to one of ordinary skill in the relevant art at the time of the claimed invention, in view of Gaither, to have a kit further comprising a container configured to house the portable object and instructions and to enable the portable object to be carried to various site locations, for the purpose of providing "a good way to 'reach out and touch' each other in friendship", first paragraph, first sentence, page 170).

#### ***Allowable Subject Matter***

Claims 8-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments filed 03 October 2002 have been fully considered but they are not persuasive. Applicants argue that the Laz reference does not disclose a method of conflict resolution but rather a scenario where conflict arises. The examiner disagrees, the examiner has taken the broadest possible interpretation in the art and

equated the monotony, boredom, and aridness of Jamie's and Stu's marriage with a conflict between the two. The examiner taking the broadest possible interpretation in the art, further equates positioning a candlelit dinner with positioning a portable object (where items comprising a candlelit dinner, such as the food, utensils, plates and candles, are certainly portable). Regarding the applicants argument that a home is not a reserved space needed for a portable object, the examiner disagrees. A location is certainly needed to be provided for a candlelit dinner the use of Jamie's and Stu's home is an ideal location. The examiner further points out that claim 1, does not make any distinction as to specifics of a location but only states "...positioning a portable object at a location for the two or more parties to physically position themselves with respect to the portable object..." therefore the home fully fits the limitations as stated in the claims. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a conflict resolution area being remote or set apart from customary work or gathering area of the participants...) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Regarding applicants argument that there is no teaching of extending an invitation by a first party to at least one second party, the examiner disagrees. The examiner has taken the broadest possible interpretation in the art and equated the Jamie's dinner and the "let's eat" as an invitation to Stu to settle their conflict. The sharing of feelings in the reference would be accomplished over dinner (according to script). Regarding the

reference of Gaither, Gaither is relied upon to teach a basket (well known in the art) which is adapted to carry food or items for eating (such as items used for a candlelit dinner of Laz).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ds  
November 12, 2002



DERRIS H. BANKS  
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